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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,403	12/19/2001	Brian K. Doyle	ADV12P302A	4925

277 7590 09/29/2003

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/025,403	DOYLE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lien T Tran	1761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-8,11-17,19,20,22-27,29-33 and 35-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,11-17,19,20,22-27,29-33 and 35-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

Claims 41-46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the amendment filed August 21, 2003, applicant submitted new claims 41-46; these new claims are not supported by the original disclosure. The specification does not disclose a food product which further comprises a slurry containing a dextrin and rice flour applied to the exterior coating of the substrate. There is no disclosure of a slurry comprising the dextrin and rice flour and this slurry is applied to the exterior coating. Applicant did not point out the support in the specification for these new claims.

Claims 1-3,5-8,11-17,19-20, 22-27, 29-33,35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baur et al.

Baur et al disclose food product comprising a food substrate coated with a cereal-based batter. The food substrate includes cereal-based products such as pizza dough, biscuit dough, grain-based snack, veggie burger and breakfast cereals. The batter comprises yellow corn flour, food starch, wheat flour, salt, sugars and leavening. The coated food substrate can be parfried, frozen and finished cooked at a latter time or the coated food substrate can be fully cooked. The parfried food product can be cooked to completion by conventional means such as baking by conventional oven, microwave oven, deep-fat frying or sauteing. (See columns 2-4)

The teaching of Baur et al is described above. Baur et al do not disclose a dough made of potato, a product which emulates a slice of natural food, the thickness of the food substrate, heating in a toaster, a baked product, the product is waffle, pancake or cookies, dusting the food substrate and using dried ingredients for the coating.

The ingredients used to make the batter in Baur are dry ingredients; these ingredients are combined with water before applying to the substrate. Thus, the limitation of "a coating made primarily from dry particulate starch components" is taught by Baur. With respect to claim 24, it would have been obvious to one skilled in the art to apply the coating as dried ingredients or as a batter mix depending on the amount of coating one desires on the substrate. It is well known that starch components such as flour, starch etc.. can be applied to the substrate as dry ingredients or as a batter. For example, one can coat a piece of fish in the flour before frying or one can applied a slurry of flour to the fish before frying. With the slurry, the coating will be thicker and adhere more firmly to the piece as oppose to the dry flour. Both methods are well known in the art and it would have been obvious to use one or the other; applicant also discloses the coating can be applied as dry ingredients or as a batter/slurry. It would have been obvious to make the dough out of any ingredients depending on the taste desired. It would also have been obvious to apply a batter coating to any dough product when it is desired to obtain crisp outer coating; the selection of the food substrate would have been an obvious matter of choice. It would also have been obvious to make the product in any shape and form; this is a matter of design form and it would have been a matter of preference. It would also have been obvious to make the product to have any

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varying thickness; this is a matter of choice. While Baur et al teach frying the product, it would have been obvious to bake the product if it is desired to reduce the fat content and a baking texture is desired. It would also have been obvious to dust the substrate with dried ingredient before coating to obtain a smooth coating; this is well known in the art.

Claims 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baur as applied to claims 1-3,5-8,11-17,19-20, 22-27, 29-33,35-40 above, and further in view of Haverkos et al.

Baur et al do not disclose applying a slurry comprising rice flour and dextrin to the coating.

Haverkos et al disclose a coating composition which includes starch and dextrin to food substrate. The dextrin promotes crispiness and enhances the shell-like texture to lock in the moisture. The starch can be rice starch. (see col. 3 lines 10-20)

It would have been obvious to one skilled in the art to apply a slurry containing dextrin to the Baur et al product when desiring to further enhance the crispiness and to lock in the moisture. It would have been obvious to also include rice flour to provide texture because food coating typically contains a starch component such as flour or starch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

September 20, 2003

  
LIEN TRAN  
PRIMARY EXAMINER  
*Group 1700*